

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN IN	:	21-cv-0608
Petitioner,	:	
v.	:	HON. JOHN M. GALLAGHER
	:	UNITED STATES DISTRICT JUDGE
MARK CAPOZZA,	:	
Superintendent,	:	HON. MARILYN HEFFLEY
SCI Fayette,	:	UNITED STATES MAGISTRATE JUDGE
Respondent.	:	

**PETITIONER'S APPENDIX TO THE
BRIEF IN SUPPORT OF HIS
PETITION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. §2254**

Karl Schwartz
Katherine Ernst
Wiseman & Schwartz, LLP
718 Arch Street, Suite 702 North
Philadelphia, PA 19106
(215) 450-3391
schwartz@wisemanschwartz.com

Counsel for Petitioner
John In

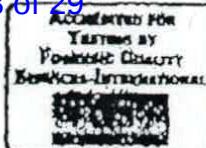
Dated: December 6, 2021
Philadelphia, PA

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**Philadelphia Police Department
Forensic Science Division
DNA Identification Laboratory Report
843-849 N. 8th Street - 3rd Floor
Philadelphia, PA 19123**



Attn: Det Conn #629
Philadelphia Police Dept.
South Detectives Division
24th & Wolf Streets
Philadelphia, Pa. 19145

Attn: Lt. Nolan #386
Philadelphia Police Dept.
Internal Affairs Bureau
7790 Dungan Road
Philadelphia, Pa. 19111

Attn: ADA Lauren Baraldi
District Attorney's Office
Repeat Offenders Unit
3 S. Penn Square
Philadelphia, PA 19107

Date: 3/6/2008
Lab#: 07-70327
DC#: 07-04-009377
SDD#: 07-01776
LAB P/S#: 07-18

Investigation of the robbery at 720 Mifflin Street

DNA isolation techniques were performed on the below listed samples, amplified using Polymerase Chain Reaction (PCR), and typed using the Promega Powerplex 16bio STR DNA typing kit. The analysis of the below listed samples and any conclusions drawn from the results thereof were conducted in accordance with the Philadelphia Police Department DNA Identification Laboratory Quality Assurance Manual, FBI Quality Assurance and ISO/IEC 17025, FRA1 and FRA2 requirements for accreditation through Forensic Quality Services (FQS).

SUMMARY OF POWERPLEX 16BIO STR & AMELOGENIN TYPING:

Sample #	Item Description	QME/PR#	FGA	D13S160	D8S1179	D7S1200	D16S538	Amelogenin	Penta E	D18S51	D18S11
24775	Item #1, swab from white latex glove, rear alley behind 724 W. Mifflin *	9006285	(21) 24 (26)	(9)	11	12	(14)	16	(17)	X	Y
24776	Item #2, swab from white latex glove, in front vestibule of 720 W. Mifflin *	9006285	24 (25)	Incl.	(10)	(12) 14		16	17	X	Y
24777	Item #3, swab from piece of latex glove, on the highway near 600 W. Mifflin *	9006285	19 (20) (22) 24 25	8 (9)	(10)	12	(13)	16	17	X	Y
24778	Item #4, swab of item #1 (PR#9006283), Sig Sauer 9mm Pistol *	9006285	21 (24)	8	8	10	13 (14)	16	(17)	X	Y
24779	Item #5, swab of item #2 (PR#9006283), Heckien & Kuch P-2000 9mm Pistol *	9006285	21 (22)	8		11	(12) (14)	16	16	X	Y
24780	Item #6, swab taken from live round in chamber of item #1 (PR#9006283)	9006285	NR	NR	NR	NR	NR	NR	NR	NR	NR
24781	Item #7, swab taken from live round in chamber of item #2 (PR#9006283)	9006285	NR	NR	NR	NR	NR	NR	NR	NR	NR
24805	Buccal swab, Jerry Jean	2720376	24 24	9	11	12	12	16	16	X	Y
24806	Buccal swab, John In	2720377	18 23	8	9	10	13	18	18	X	Y
										11	12
										13	19
										29	30
										30	33.2

SUMMARY OF POWERPLEX 16BIO STR & AMELOGENIN TYPING (Continued):

Sample #	Item Description	QME/PR#	D13S160	D8S1179	Penta E	CSRIPO	D16S538	D7S1200	D17S317	DSSB18
24775	Item #1, swab from white latex glove, rear alley behind 724 W. Mifflin *	9006285	(6) 8 (7) 17	15 (16) 13	9 (12) (13)	11 (12) (13)	(10) (11) 12 (13) 15	8 (10) 11	(11) 12 (11) 12	8 (10) (11) 12 (13)
24776	Item #2, swab from white latex glove, in front vestibule of 720 W. Mifflin *	9006285	8 9 9.3	16 (17)	9 10	10 (11)	9 11 (12)	10 11 12	(8) (9) 11 (12)	(11) 12 (11) 12 (13)
24777	Item #3, swab from piece of latex glove, on the highway near 600 W. Mifflin *	9006285	6 8 (9) (9.3)	15 (17)	16 (2.2) 9 (12) (13)	7 (10) 11	9 (11) (12) 13	8 9 (10) 11 (10) 11 12 13	(8) (9) (10) 11 (10) 11 12 13	(6) 10 11 12
24778	Item #4, swab of item #1 (PR#9006283), Sig Sauer 9mm Pistol *	9006285	9 9.3	17	17 11	10	9	10 11	8 8	11 12
24779	Item #5, swab of item #2 (PR#9006283), Heckien & Kuch P-2000 9mm Pistol *	9006285	8 9.3	14	15 (9)	13 11	(9) 11	10 (11)	9 12	(8) 10 (11) 12 (13)
24780	Item #6, swab taken from live round in chamber of item #1 (PR#9006283)	9006285	NR	NR	NR	NR	NR	NR	NR	NR
24781	Item #7, swab taken from live round in chamber of item #2 (PR#9006283)	9006285	NR	NR	NR	NR	NR	NR	NR	NR
24805	Buccal swab, Jerry Jean	2720376	8 8	15	17 9	13 11	12 15	8 11	12 12	8 12
24806	Buccal swab, John In	2720377	7 7	15	15 12	15 10	12 11	8 11	11 11	10 12

* - DNA mixture

() - lighter intensity allele

Incl. - Inconclusive results

NR - No results

Attn: Det Conn #629
 Philadelphia Police Dept.
 South Detectives Division
 24th & Wolf Streets
 Philadelphia, Pa. 19145

Attn: Lt. Nolan #386
 Philadelphia Police Dept.
 Internal Affairs Bureau
 7790 Dungan Road
 Philadelphia, Pa. 19111

Attn: ADA Lauren Baraldi
 District Attorney's Office
 Repeat Offenders Unit
 3 S. Penn Square
 Philadelphia, PA 19107

Date: 3/6/2008
 Lab#: 07-70327
 DC#: 07-04-009377
 SDD#: 07-01776
 IAB P/S#: 07-18

CONCLUSIONS:

1. John In is excluded as a contributor of the DNA detected in samples #24775 - 24779.
2. Jerry Jean is included as a contributor of the major component of the DNA mixture detected at the FGA, D8S1179, vWA, Amelogenin, D18S51, D21S11, TH01, D3S1358, Penta D, D16S539, D7S820, D13S317 and D5S818 loci in sample #24775. The frequency of this combination of DNA types is 1 in 466 quadrillion in the random unrelated African American population, 1 in 2.88 quintillion in the random unrelated Caucasian population and 1 in 692 quadrillion in the random unrelated Hispanic population. Jerry Jean also can not be excluded as a contributor to the DNA mixtures detected at the TPOX, Penta E and CSF1PO loci; however due to the low intensity at these loci, these loci were excluded from the statistical analysis. No further conclusions can be made at this time regarding any additional contributors of the DNA detected in this sample.
3. The partial DNA mixture profile detected in sample #24776 consists of a mixture from at least two contributors, at least one of which is male. Jerry Jean and John In are excluded as contributors of the DNA detected in this sample. No further conclusions can be made at this time regarding any additional contributors of the DNA detected in this sample.
4. The DNA detected in sample #24777 consists of a mixture from at least three contributors, at least one of which is male. Under the assumption that there are four contributors, Jerry Jean cannot be excluded as a partial contributor of the DNA detected in this sample. However, both DNA types possessed by Jerry Jean were not detected at the Penta E, D18S51, CSF1PO and D16S539 loci. The inability to detect both DNA types at these loci could be attributed to allelic dropout. John In is excluded as a contributor of the DNA detected in this sample. No further conclusions can be made at this time regarding any additional contributors of the DNA detected in this sample.
5. The partial DNA mixture profile detected in sample #24778 consists of a mixture from at least two contributors. The major component originates from an unknown male. Jerry Jean and John In are excluded as contributors of the DNA detected in this sample. No further conclusions can be made at this time regarding any additional contributors of the DNA detected in this sample.
6. The partial DNA mixture profile detected in sample #24779 consists of a mixture from at least three contributors, at least one of which is male. Jerry Jean and John In are excluded as contributors of the DNA detected in this sample. No further conclusions can be made at this time regarding any additional contributors of the DNA detected in this sample.
7. No DNA results were obtained from samples #24780 and 24781.

DISPOSITION OF EVIDENCE:

All processed DNA extracts have been retained in the DNA Identification Laboratory.
 The evidence swabs and reference samples have been returned to the Criminalistics Laboratory.



Benjamin S. Levin
 Forensic Scientist II

Laboratory User Fee Requested: \$3,300.00



REFERENCE SAMPLE COLLECTION INSTRUCTIONS

Chain of Custody Procedure

PAPERWORK AND ID

1. Verify the tested party's ID:

- Qualified photo IDs include state driver's license, passport, military ID, employment photo ID, inmate's photo badge or photo intake form.
- For tested parties under 18 years of age, a birth certificate or Social Security Card is acceptable.
- Make a photocopy of the tested party's photo ID and attach it to the Reference Sample Information Form.

2. Complete all fields and check appropriate boxes on the Reference Sample Information Form.

SPECIMEN COLLECTION PROCEDURE

1. Collect Specimens:

- Use only the buccal swabs provided. Remove swabs from wrapper and discard the wrapper.
- Scrape each swab briskly against the inside of the cheek for 10 strokes. Rotate the swabs while scraping from front to back using 2 swabs for each cheek.
- Place swabs inside the Buccal Swab Collection envelope provided, one at a time as you collect them.
- When all 4 swabs are placed inside the paper envelope, seal the envelope with one of the red tamper tapes provided. **Do not lick the envelope to seal; doing so might contaminate the sample.** Write your initials or sign the tape.

2. Label Specimens: Properly label each envelope containing the specimen with the tested party's name and date of birth, the collector's name, and date of collection. The tested party then should verify the accuracy of the label and write their initials on the corresponding line. Please note that any unlabeled or mislabeled specimen jeopardizes chain of custody and cannot be used.

SHIPPING PROCEDURE

1. Package Specimens:

- Place the following items in the white DDC envelope:
 - all envelopes containing buccal swab samples
 - all completed paperwork (Reference Sample Information Form or Chain of Custody Form, if applicable)

2. Apply Tamper Tape: Sign/date the other red tamper tape and seal DDC envelope with this tamper tape.

3. Seal FedEx or UPS Package: Place the sealed DDC envelope containing buccal samples and all identification documentation/paperwork into the FedEx or UPS Shipping package provided by DDC, and seal securely. If you wish to use a different carrier, please call DDC for shipping instructions.

4. Contact FedEx or UPS for Package Pickup: If you have a regularly scheduled UPS or FedEx pickup, simply place package in your outgoing courier mail. Otherwise, for UPS call 1-800-823-7459 or visit www.ups.com and select "Schedule a Pickup." For FedEx, visit <http://www.fedex.com> and select "Shipping" and then "Schedule & Manage Pickups" or call 800-463-3339.

5. Record Shipment Tracking Number: Record the shipping tracking or confirmation number for your reference.

1260 0665 6099

Questions? Call DDC Forensics: 1-800-406-1940 (Mon-Fri, 8:30am-5:30pm Eastern Time)



Reference Sample Information Form

Chain of Custody Documentation

A copy of this form must be completed for each reference sample contributor.

Forensics

Section I: Reference Sample Information to be Completed by Collector

Tested Party's name will appear on the report exactly as you enter it here.	First	Middle	Last
Tested Party's Full Legal Name: (print)	<u>Durhan Dante Marable</u>		
Date of Birth: (mm/dd/yyyy)	2/12/86		
Social Security Number:	<u>174-66-9431</u>		
Case Reference #: (if available)			
Date of Collection: (mm/dd/yyyy)	2/25/20		
		<input checked="" type="checkbox"/> Asian <i>Race information is required for testing.</i> <input checked="" type="checkbox"/> Black <i>Please select the race that best describes the tested party. If more than one applies, select "other" and describe.</i> <input type="checkbox"/> Caucasian <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Other:	

Section II: Reference Sample Information Verification to be Completed by Tested Party

Sign Here

I, the undersigned, attest that the information appearing in Section I of form is correct and true to the best of my knowledge.

X Signature of Patient or Legal Custodian: Karl Schwartz

*Legal Custodian's signature is required only if the Patient is under 18 years of age or a legally incompetent adult.

X 2/25/20

Date (mm/dd/yyyy)

Section III: Information to be Completed by Collector

Patient Identification:	Collection Facility/Responsible Party Information:		
ID #: _____	Collector's Name:	<u>Karl Schwartz</u>	
<input type="checkbox"/> Social Security Card <input type="checkbox"/> Birth Certificate <input checked="" type="checkbox"/> Driver's License <input type="checkbox"/> State ID <input type="checkbox"/> Inmate's Photo Badge <input type="checkbox"/> Other: _____	Organization:	<u>Law Firm</u>	
	Address:	<u>718 Arch St., Philadelphia, PA</u>	
	C/S/Zip:	<u>19106</u>	
	Country:	<u>U.S.A</u>	
	Phone:	<u>(215) 450-3391</u>	
	Shipping Via:	<input checked="" type="checkbox"/> FedEx <input type="checkbox"/> UPS <input type="checkbox"/> Courier <input type="checkbox"/> Other: _____	

I, Karl Schwartz, hereby affirm that I have properly identified the tested party. I have collected the specimen and labeled the container and package properly in the presence of the tested party. The specimen is clearly labeled with the tested party's name, date of birth, and date of collection. The specimen has not been tampered with and was never left unattended. I have packaged the specimen securely for shipment.

Sign Here

X

Signature of Collector

X 2/25/20

Date (mm/dd/yyyy)

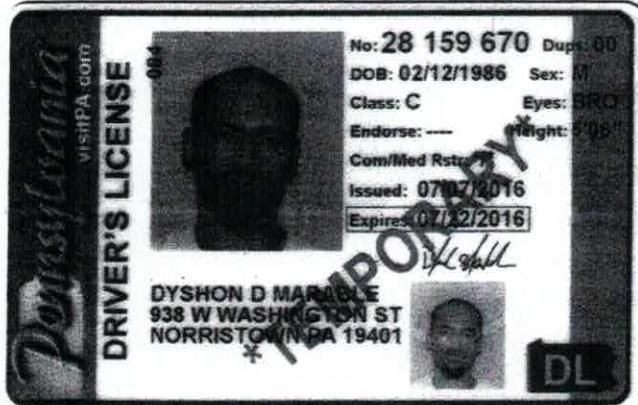
Time

3:15 AM PM

Please be sure the form is completed. Incomplete forms may jeopardize Chain of Custody and delay testing.

WARNING: This form and the collection kit are the property of DNA Diagnostics Center. Use of any DNA Diagnostics Center materials and camera to serve laboratories other than DNA Diagnostics Center is strictly prohibited. Violators will be subject to legal prosecution.

FORENSICS
Case # F20-25192
A4





DNA Diagnostics Center
 Forensic Service
 One DDC Way
 Fairfield, OH 45014
 1-800-406-1940
 fax 1-800-310-9746

FORENSIC REPORT

Report #1

To: Mr. Karl Schwartz
 Attorney at Law
 Wiseman & Schwartz, LLP
 718 Arch Street, Suite 702 North
 Philadelphia, PA 19106

Date: 2/28/20

DDC Case No.: F20-25192

The following item was analyzed:

DDC Item No.	Description	Date Received
01	Reference standard from Dyshon Marable	2/26/20

Deoxyribonucleic Acid (DNA) Results:

DNA typing was performed using Polymerase Chain Reaction (PCR) with the GlobalFiler™ amplification kit on item 01.A.1 (reference standard from Dyshon Marable).

Conclusions:

A DNA profile was obtained from item 01.A.1 (reference standard from Dyshon Marable).

Disposition of Evidence:

The evidence is stored in the DDC Forensic Department.

Stacy B. Martin, B.S.
 Forensic DNA Analyst

Julie A. Heinig, Ph.D.
 Forensic Director
 DNA Technical Leader
 Technical Reviewer

Case Number: F20-25192

Date: 2/27/20

Analyst: SBM

Locus	01.A.1 Reference standard from Dyshon Marable
D3S1358	17, 18
vWA	15, 17
D16S539	10, 11
CSF1PO	11
TPOX	11
Yindel	2
Amelogenin	XY
D8S1179	12, 13
D21S11	29, 31
D18S51	16
DYS391	10
D2S441	11, 14
D19S433	13, 13.2
TH01	7
FGA	21, 23
D22S1045	10, 11
D5S818	8, 12
D13S317	11
D7S820	8, 9
SE33	17, 24.2
D10S1248	13
D1S1656	12, 20
D12S391	15, 19
D2S1338	17, 19

**CURRICULUM VITAE OF
ARTHUR W. YOUNG**

Guardian Forensic Sciences | 1021 Old York Road, Suite 202 | Abington, PA 19001
Office: 215-277-1780 / Fax: 215-277-1785 / UnityFax.com: 215-933-5221 / Cell: 337-781-4122
e-mail: ayoung@guardianforensicsciences.com

EDUCATION

University of Southwestern Louisiana - Lafayette, LA	1986 - 1991
▪ (<i>Renamed to The University of Louisiana at Lafayette in 1999</i>)	
▪ Degree: Bachelor of Science	
▪ Major: Pre-Medical Sciences	

EXPERIENCE

Guardian Forensic Sciences - Abington, PA	10/2010 - present
▪ Forensic Biology Specialist & Managing Partner	
NMS Labs - Willow Grove, PA	01/2002 - 10/2010
▪ Forensic Biologist	
Arcadia University - Glenside, PA	08/2004 - 10/2008
▪ Adjunct Instructor	
Acadiana Criminalistics Laboratory - New Iberia, LA	07/1991 - 09/2001
▪ Forensic Chemist	
Jeff Nemetz Photography - Abbeville, LA	04/1996 - 12/2001
▪ Assistant Photographer	
Maison de Portrait/Jay Faugot Photography - Lafayette, LA	07/1986 - 12/2001
▪ Assistant Photographer & Darkroom Technician	
University Medical Center - Lafayette, LA	12/1989 - 06/1991
▪ Student Lab Assistant	

CONTINUING EDUCATION / CONFERENCES ATTENDED

Serological Research Institute - Richmond, CA	1991
▪ Forensic serology	
McCrone Research Institute - Chicago, IL	1991
▪ Polarized light microscopy	
American Academy of Forensic Sciences - New Orleans, LA	1992
▪ Courtroom testimony	
Serological Research Institute - Richmond, CA	1992
▪ Forensic serology	
Tarrant County Medical Examiner's Office and Forensic Labs - Ft. Worth, TX	1992
▪ Forensic serology	
Southern Association of Forensic Scientists / Southwestern Association of Forensic Scientists / Southwestern Association of Toxicologists - Shreveport, LA	1992
▪ Forensic serology	
North Louisiana Criminalistics Laboratory - Shreveport, LA	1992
▪ Forensic serology	
Federal Bureau of Investigation, Forensic Science Research and Training Center - Quantico, VA	1992
▪ Forensic serology	
Southern Association of Forensic Scientists / Southwestern Association of Forensic Scientists / Southwestern Association of Toxicologists, Shreveport, LA	1992
▪ Crime scene processing	

CONTINUING EDUCATION / CONFERENCES ATTENDED (continued)

Louisiana Association of Scientific Crime Investigators - New Iberia, LA	1993
▪ Photography	
Southwestern Association of Forensic Scientists' Annual Conference - South Padre Island, TX	1993
▪ Forensic serology	
Southern Association of Forensic Scientists' Annual Conference - Houston, TX	1994
▪ Forensic serology	
Southwestern Association of Forensic Scientists' Annual Conference - Colorado Springs, CO	1995
▪ Forensic serology; forensic DNA analysis	
North Louisiana Criminalistics Laboratory - Shreveport, LA	1996
▪ Blood stain pattern interpretation	
▪ Taught by University of Tennessee (Memphis, TN)	
Federal Bureau of Investigation, Forensic Science Research and Training Center - Quantico, VA	1996
▪ Forensic DNA analysis	
National Forensic Science Training Center - St. Petersburg, FL	1996
▪ Statistics	
Tulane University/GenTest Laboratories	1996
▪ Forensic DNA analysis	
Acadiana Criminalistics Laboratory - New Iberia, LA	1996
▪ Hair examination	
▪ Taught by California Criminalistics Institute (Sacramento, CA)	
North Louisiana Crime Lab - Shreveport, LA	1997
▪ Forensic DNA analysis	
Louisiana State Police - Baton Rouge, LA	1997
▪ Polarized light microscopy	
▪ Taught by McCrone Research Institute (Chicago, IL)	
Acadiana Criminalistics Laboratory	1997
▪ Laboratory auditing	
▪ Taught by California Criminalistics Institute (Sacramento, CA)	
Applied Biosystems, Foster City, CA - Oklahoma City, OK	1998
▪ Forensic DNA analysis	
Southwestern Working Group on DNA Analysis Methods - Austin, TX	1998
▪ Forensic DNA analysis	
Southwestern Working Group on DNA Analysis Methods' Summer Conference - Austin, TX	1999
▪ Statistics	
North Louisiana Crime Lab - Shreveport, LA	1999
▪ Forensic DNA analysis	
Southwestern Working Group on DNA Analysis Methods' Annual Conference - Austin, TX	2000
▪ Forensic DNA analysis; law	
North Louisiana Crime Lab - Shreveport, LA	2001
▪ Forensic biological microscopy	
Association of Forensic DNA Analysts and Administrators' Summer Conference - Austin, TX	2001
▪ Statistics	
NMS Labs - Willow Grove, PA	2001
▪ Courtroom testimony	
▪ Taught by Quantum Communications (San Carlos, CA)	
SAIC - Clarksville, WV	2001
▪ Convicted Offender DNA Identification System (CODIS)	

CONTINUING EDUCATION / CONFERENCES ATTENDED (continued)

NMS Labs - Willow Grove, PA	2002
▪ Blood stain pattern interpretation	
▪ Taught by Spalding Forensics (Centreville, VA)	
Mid-Atlantic Association of Forensic Scientists' Annual Conference - Frederick, MD	2002
▪ Forensic DNA analysis	
Southwestern Working Group on DNA Analysis Methods' Annual Conference - Austin, TX	2002
▪ Law	
Mid-Atlantic Association of Forensic Scientists' Annual Conference - Annapolis, MD	2003
▪ Law	
Tennessee Bureau of Investigation - Nashville, TN	2003
▪ Forensic DNA analysis, Y-STR DNA analysis	
Mid-Atlantic Association of Forensic Scientists' Annual Conference - Annapolis, MD	2003
▪ Improvised explosive devices	
Association of Forensic DNA Analysts and Administrators' Summer Conference - Austin, TX	2003
▪ Y-STR DNA analysis	
Mid-Atlantic Association of Forensic Scientists' Annual Conference - Wilmington, DE	2004
▪ Courtroom testimony	
Federal Bureau of Investigation, Forensic Science Research and Training Center - Quantico, VA	2004
▪ Laboratory auditing	
American Academy of Forensic Sciences, Colorado Springs, CO	2004
▪ Serial and signature homicides	
Association of Forensic DNA Analysts and Administrators' Summer Conference - Austin, TX	2006
▪ Statistics	
Henry C. Lee Institute of Forensic Science's Markle Symposium - New Haven, CT	04/17/06
▪ Drug-related crimes	
Mid-Atlantic Association of Forensic Scientists' Annual Conference - Washington, DC	2007
▪ Forensic DNA analysis; statistics	
NMS Labs - Willow Grove, PA	2007
▪ GeneMapper software	
▪ Taught by Applied Biosystems (Foster City, CA)	
310 CE Users' Group - ATF Lab, Beltsville, MD	2008
▪ Low-template DNA analysis; DNA mixture interpretation	
American Academy of Forensic Sciences - Washington, DC	2008
▪ DNA mixture interpretation	
Association of Forensic DNA Analysts and Administrators' Summer Conference - Austin, TX	2008
▪ Forensic DNA analysis; ethics	
Promega's International Symposium on Human Identification - Las Vegas, NV	2009
▪ Statistics; ethics	
Promega's International Symposium on Human Identification - San Antonio, TX	2010
▪ Low-template DNA analysis	
Promega - Pikesville, MD	2011
▪ DNA mixture interpretation; statistics	
Mid-Atlantic Association of Forensic Scientists' Annual Conference - Ellicott City, MD	2012
▪ Statistics	
American Academy of Forensic Sciences' Annual Conference - Washington, DC	2013
▪ Statistics	
William Burnham Jr. Death Scene Awareness Project - Harrisburg, PA	2013
▪ Crime scene processing	

CONTINUING EDUCATION / CONFERENCES ATTENDED (continued)

Pennsylvania State University - State College, PA	2013
▪ Law	
Promega's International Symposium on Human Identification - Phoenix, AZ	2014
▪ Forensic DNA analysis; low-template DNA analysis; statistics; bodily fluid identification by mRNA	
Mid-Atlantic Association of Forensic Scientists' Annual Conference - Richmond, VA	05/2016
▪ Low-template DNA analysis; probabilistic genotyping	
Association of Forensic DNA Analysts and Administrators' Summer Conference - Austin, TX	07/2016
▪ Forensic DNA analysis; DNA mixture interpretation; probabilistic genotyping	
Forensic Technology Center of Excellence - (online)	02/2017
▪ Error and uncertainty of measurement in blood stain pattern analysis	
Forensic Technology Center of Excellence - (online)	05/2017
▪ ASCLD Webinar Series: DNA Standards and Guidelines	
Forensic Technology Center of Excellence - (online)	09/2017
▪ Record linkage of CODIS profiles with SNP genotypes	

PUBLICATIONS

- Young, Arthur W. "Cracking the Code: Understanding DNA Evidence." How to Try a Rape Case (PBI publication #4416). Mechanicsburg, PA: Pennsylvania Bar Institute, May 2006. Library of Congress Card Catalog Number 2006923621
- Young, Arthur W. "Crime Scene Processing and Forensic DNA." CSI at PBI (PBI publication #2011-6590). Mechanicsburg, PA: Pennsylvania Bar Institute, 2011. Library of Congress Card Catalog Number 2010935230

COURT TESTIMONY

Areas accepted as an expert:

- Forensic serology
- Forensic DNA analysis
- Forensic biology (encompasses both serology and DNA analysis)
- Blood stain pattern interpretation

States/districts accepted as an expert witness (asterisk indicates testimony was provided via video teleconference):

- | | | | | |
|--------------|--------------|----------------|------------------------|------------------|
| ▪ Arkansas | ▪ California | ▪ Delaware | ▪ District of Columbia | ▪ Georgia |
| ▪ Louisiana | ▪ Texas | ▪ Florida | ▪ Maryland | ▪ Massachusetts |
| ▪ New Jersey | ▪ New York | ▪ Pennsylvania | ▪ Virginia | ▪ West Virginia* |
| ▪ Wisconsin* | | | | |

PROFESSIONAL ASSOCIATIONS

American Academy of Forensic Sciences

- Member

American Board of Criminalistics

- Fellow
- Past Technical Specialist in Molecular Biology

Association of Forensic DNA Analysts and Administrators

- Member
- Past Chairperson

International Association of Bloodstain Pattern Analysts

- Member

Mid-Atlantic Association of Forensic Scientists

- Member

Southern Association of Forensic Scientists

- Member

LECTURES / WORKSHOPS GIVEN

The following is an incomplete list of lectures given, including venues, locations, and dates:

“Collection and Preservation of Biological Samples” ▪ Louisiana Association of Scientific Crime Investigators - New Iberia, LA	(annually, 1992 - 2001)
“The Collection, Preservation, and Analysis of Sexual Assault Evidence” ▪ Sexual Abuse Response Center Volunteer Training Group - Lafayette, LA	(annually, 1992 - 2001)
“Collection and Preservation of Biological Samples” ▪ Acadiana Law Enforcement Training Academy - New Iberia, LA	(annually, 1996-2001)
“Forensic Science as a Career” ▪ St. Thomas More High School - Lafayette, LA	(annually, 1995 - 2000)
“Evidence Lost: The Role of the Nurse in the Forensic Investigation” ▪ American Association of Critical Care Nurses - Biloxi, MS	10/27/01
“Maxxing Your Macs” ▪ Mid-Atlantic Association of Forensic Scientists - Wilmington, DE	Spring 2004
“The MicroTakayama Crystal Test” ▪ Mid-Atlantic Association of Forensic Scientists - Wilmington, DE	Spring 2004
“The Identification of Human Saliva” ▪ Mid-Atlantic Association of Forensic Scientists - Wilmington, DE	Spring 2004
“Forensic Science as a Career” ▪ Montgomery County Technical Career Center - Lansdale, PA	Fall 2004
“The Identification of Human Saliva” ▪ American Academy of Forensic Science Annual Meeting - Dallas, TX ▪ Poster presentation	02/2004
“CSI Meets Animal Cops, With A Dash Of MacGyver: Novel Forensic Solutions To The Humane Officer’s Cases” ▪ Pennsylvania Society for the Prevention of Cruelty to Animals	05/2005
“Updates in Forensic Science” ▪ Pennsylvania District Attorneys Association - Gettysburg, PA	06/2005
“Collecting and Preserving Biological Evidence” ▪ Cheltenham Township Police Department - Cheltenham, PA	11/2005
“Collecting and Preserving Biological Evidence” ▪ Abington Township Police Department, Montgomery County D.A.’s Office, and surrounding agencies	04/13/06
“Drug-Facilitated Rape: From Collection and Preservation to Analysis and Beyond” ▪ Markle Symposium (Henry C. Lee Institute) - Uncasville, CT	04/17/06
“DNA Evidence in Rape Cases” ▪ Pennsylvania Bar Institute - Philadelphia, PA	05/11/06
“Strategies for Success: Vacuum Swabs, Vacuum Filters, and Concentrating DNA Extracts” ▪ Association of Forensic DNA Analysts and Administrators - Austin, TX	07/28/06
“Basic, Advanced, and Forensic Photography” ▪ Philadelphia Police Department Crime Scene Unit - Philadelphia, PA	08/07/06 - 08/08/06
“Basic, Advanced, Forensic, and Advanced Forensic Photography” ▪ Abington Township Police Department, Montgomery County D.A.’s Office, and surrounding agencies - Abington, PA	03/05/07 - 03/06/07
“The Case of Deanna Wright-McIntosh” ▪ International Homicide Investigators Association Annual Meeting - Las Vegas, NV	09/19/07
“Forensic DNA Analysis in the 21 st Century: 2007 Update” ▪ Southeast Pennsylvania Police Chiefs’ Association	11/08/07
“Creative Uses of Forensic DNA Analysis to Exculpate” ▪ Philadelphia Defender Association - Philadelphia, PA	11/10/07
“The Forensic Biologist: Your New Partner in Crime” ▪ Delaware County police agencies - Neumann University, Aston, PA	11/13/07

LECTURES / WORKSHOPS GIVEN (CONTINUED)

“Forensic Science as a Career”	12/20/07
▪ Montgomery County Technical Career Center - Lansdale, PA	
“Unravelling DNA’s Mysteries: From Molecules to Statistics”	03/17/08
▪ Montgomery County Public Defender’s Office, Montgomery County District Attorney’s Office, Philadelphia Defender Association, and area attorneys	
“Forensic Science as a Career”	04/11/08
▪ Philadelphia High School for Girls - Philadelphia, PA	
“Sexual Assault Evidence: From Collection and Preservation to Analysis and Beyond”	06/19/08
▪ Montgomery County District Attorney’s Office and Montgomery County police agencies	
“Attacking DNA Evidence: Who, What, When, Where, and Why”	06/21/08
▪ Philadelphia Defender Association - Philadelphia, PA	
“Forensic DNA Analysis in the 21 st Century”	07/19/08
▪ LeadAmerica - Fordham University, Bronx, NY	
“Blood Stain Pattern Interpretation”	07/19/08
▪ LeadAmerica - Fordham University, Bronx, NY	
“Unravelling DNA’s Mysteries: From Molecules to Statistics”	07/21/08
▪ United States Attorney General’s Office - Philadelphia, PA	
“Forensic DNA Analysis in the 21 st Century”	10/06/08
▪ Virginia Homicide Investigators Association - Virginia Beach, VA	
“The Case of Deanna Wright-McIntosh”	10/07/08
▪ Virginia Homicide Investigators Association - Virginia Beach, VA	
“The Forensic Biologist: Your New Partner in Crime”	10/28/08
▪ Delaware County police agencies - Ridley High School, Folsom, PA	
“Unravelling DNA’s Mysteries: From Molecules to Statistics”	11/24/08
▪ Monmouth County Public Defenders Office - Freehold, NJ	
“Forensic Serology”	12/03/08
▪ The Innocence Project - New York, NY	
“Forensic DNA Analysis in the 21 st Century”	01/06/09 and 01/08/09
▪ Hawaii Police Department - Kona, HI	
“Forensic DNA Analysis in the 21 st Century”	06/29/09
▪ The Innocence Project - New York, NY	
“Forensic DNA Analysis in the 21 st Century”	07/20/09
▪ LeadAmerica - Fordham University, Bronx, NY	
“Blood Stain Pattern Interpretation”	07/20/09
▪ LeadAmerica - Fordham University, Bronx, NY	
“Forensic DNA Analysis in the 21 st Century”	07/19/10
▪ LeadAmerica - Columbia University, New York, NY	
“Blood Stain Pattern Interpretation”	07/19/10
▪ LeadAmerica - Columbia University, New York, NY	
“Cracking the Code”	09/09/10
▪ Montgomery Bar Association - Norristown, PA	
“Remembering Deanna”	10/13/10
▪ Promega’s 21st International Symposium on Human Identification - San Antonio, TX	
“Collecting and Preserving Biological Evidence”	10/25/10
▪ York City Police Department - York, PA	
“Forensic DNA Analysis in the 21st Century”	10/25/10
▪ York City Police Department - York, PA	

LECTURES / WORKSHOPS GIVEN (CONTINUED)

“Behind the Curtain: A Peek at How Scientists Think, the Principles of Crime Scene Processing, and the Basics of Forensic DNA Analysis”	01/13/10
▪ Pennsylvania Bar Institute - Philadelphia, PA	
“Genetic Material: From Death Scene to Lab”	05/06/11
▪ B.J. Burnham Death Scene Awareness Symposium - Harrisburg, PA	
“Cracking the Code: Understanding Forensic DNA Analysis”	06/03/11
▪ Delaware County Fraternal Order of Police Lodge #27	
“Forensic DNA Profiling: Benefits, Privacy Concerns, & Application in the Identification of Human Remains”	07/12/11
▪ Nigerian Defence Headquarters - Abuja, Nigeria, Africa	
“Forensic DNA Analysis”	04/20/12
▪ Pennsylvania State Coroners Basic Education Course - Hershey, PA	
“Genetic Material: From Death Scene to Lab”	05/03/11
▪ B.J. Burnham Death Scene Awareness Symposium - Harrisburg, PA	
“Cracking the Code: Forensic DNA Analysis in the 21 st Century”	05/04/12
▪ Montgomery County Technical Career Center / Montgomery County Community College - Blue Bell, PA	
“Days of Somer”	05/18/12
▪ Mid-Atlantic Association of Forensic Scientists - Ellicott City, MD	
“One Century Later: The Takayama Microcrystal Test”	07/11/12
▪ Inter/Micro - McCrone Research Institute, Chicago, IL	
“The Case of Deanna Wright-McIntosh”	10/16/12
▪ Pennsylvania Juvenile Officers Conference	
“One Century Later: The Takayama Microcrystal Test”	10/24/12
▪ Southwestern Association of Forensic Scientists - Phoenix, AZ	
“Forensic DNA Analysis: The Evidentiary Issues”	04/16/13
▪ Drexel College of Medicine’s Master of Science in Forensic Science program - Philadelphia, PA	
“What Every Attorney Should Know About DNA Evidence”	04/25/13
▪ Pennsylvania Association of Criminal Defense Lawyers - Harrisburg, PA	
“One Century Later: Takayama vs. DNA”	07/17/13
▪ Inter/Micro - McCrone Research Institute, Chicago, IL	
“Full Dexter-ity”	09/25/13
▪ Central Pennsylvania law enforcement agencies - York, PA	
“Applications of Biotechnology in the Forensic Sciences”	11/10/13
▪ Montgomery County Community College - Blue Bell, PA	
“Forensic DNA Analysis”	12/06/13
▪ Pennsylvania State Coroners Basic Education Course - Hershey, PA	
“Forensic DNA Analysis”	01/09/14
▪ Allegheny County Office of the Public Defender - Pittsburgh, PA	
▪ incomplete; was interrupted by court	
“Cracking the Code: Deciphering DNA”	01/21/14
▪ Delaware County detectives and investigators; cut short due to snow storm	
“Forensic DNA Analysis”	04/11/14
▪ Pennsylvania State Coroners Basic Education Course - Hershey, PA	
“Cracking the Code: Deciphering DNA”	04/11/14
▪ Lancaster Area Paralegal Association - York, PA	
“Examination and Analysis of Biological Evidence”	10/02/14
▪ Promega’s 24th International Symposium on Human Identification - Phoenix, AZ	
“Cracking the Code: Deciphering DNA” (for detectives)	10/16/14
▪ Mercyhurst University - Erie, PA	

LECTURES / WORKSHOPS GIVEN (CONTINUED)

“Forensic DNA Analysis” (for students) ▪ Mercyhurst University - Erie, PA	10/17/14
“Applications of Biotechnology in the Forensic Sciences” ▪ Montgomery County Community College - Blue Bell, PA	11/12/14
“Using ‘Toluene Bombs’ to Recover DNA from Permount or Repair Aged Permount-Fixed Slides” ▪ Inter/Micro - McCrone Research Institute, Chicago, IL	06/08/15
“Recognizing Sentinel Events in Forensic Science to Avoid Errors” ▪ International Symposium on Forensic Science Error Management - Washington, DC	07/23/15
“CSI: Can’t Stand Inaccuracy” ▪ Professional Association of Licensed Investigators	09/15/15
“Applications of Forensic DNA Analysis for Counterterrorism and Counterintelligence” ▪ Nigerian Army Intelligence Corps - Abuja, Nigeria, Africa	09/22/15 - 09/23/15
“What’s in a ‘Match?’” ▪ Cyril H. Wecht Institute of Forensic Science and Law - Pittsburgh, PA	10/16/15
“Forensic DNA Analysis” ▪ Pennsylvania State Coroners Basic Education Course - Hershey, PA	12/11/15
“Cracking the Code I: Deciphering DNA” ▪ Federal Defender Association - Philadelphia, PA	01/14/16
“Cracking the Code II: Understanding Statistical Calculations” ▪ Federal Defender Association - Philadelphia, PA	03/10/16
“Forensic Fails” ▪ Lancaster Area Paralegal Association - York, PA	04/08/16
“New Precautions Against DNA Contamination” ▪ International Association of Identification, Chesapeake Bay Division - Williamsburg, VA	04/23/16
“Failures in Forensic Science - Read All About It” ▪ Mid-Atlantic Association of Forensic Scientists - Richmond, VA	05/19/16
“Failures in Forensic Biology - Read All About It” ▪ Mid-Atlantic Association of Forensic Scientists - Richmond, VA	05/19/16
“Legal and Legislative Considerations of Forensic Science” ▪ Lagos Forensic Symposium - Lagos, Nigeria, Africa	11/16/16
“DNA in Human Remains Identification and National Security” ▪ Lagos Forensic Symposium - Lagos, Nigeria, Africa	11/17/16
“Forensic DNA Analysis” ▪ Delaware County police agencies - Ridley Township, PA	11/23/16
“DNA Shenanigans” ▪ Defender Association of Philadelphia - Philadelphia, PA	06/24/17
“DNA Basics 101” ▪ Lancaster County Bar Association - Lancaster, PA	06/29/17



Wiseman & Schwartz, LLP
Attention: Mr. Karl Schwartz, Esquire
718 Arch Street
Suite 702 North
Philadelphia, PA 19106

February 04, 2021

Re: Commonwealth of Pennsylvania v. John In
DNA Diagnostics Center Case #F20-25192
Philadelphia Police Department's Forensic Science Division Lab #07-70327
DC #07-04-009377
SDD #07-01776
IAB P/S #07-18
Guardian Forensic Sciences Case #20-0048

Mr. Schwartz –

We are in receipt of the following documents:

- One portable document format (PDF) file entitled "Marable's Profile.pdf" containing a Forensic Report for DNA Diagnostic Center Case #F20-25192, dated 02/28/20, and issued by Forensic DNA Analyst Stacy B. Martin, B.S., consisting of two pages.
- One portable document format (PDF) file entitled "DNA.pdf" containing a report for Philadelphia Police Department's Forensic Science Division Lab #07-70327, dated 03/06/08, and issued by Forensic Scientist II Benjamin Levin, consisting of two pages.

Based on these documents, the following questions were asked:

1. Can Mr. In be confirmed as excluded as a contributor to the mixed DNA profiles found on the evidence, as was represented by the Commonwealth at Mr. In's trial in 2008?
2. Can Dyshon Marable be excluded as a contributor to the mixed DNA profile found on Item #2 (Sample #24776, "swab from white latex glove, in front vestibule of 720 W. Mifflin")?
3. Can Dyshon Marable be excluded as a contributor to the mixed DNA profile found on Item #4 (Sample #24778, "swab of item #1 (PR#9006283), Sig Sauer 9mm Pistol")?
4. Can any conclusions be made based on a comparison of the mixed DNA profiles found on these two items, with respect to a common source or sources?

No supporting documentation was provided

A forensic report is a summary of analytical findings, and any data in it must be supported with documentation in order for the conclusions to be valid. The laboratory's case file was not provided, so a completely independent review could not be conducted. I would need the laboratory's case file to do that. The observations were limited to the data that was published in the reports.

A handwritten signature in blue ink, appearing to read "John" or "Schwartz".

Samples #24780 and #24781 (live rounds) did not yield profiles

Samples #24780 and #24781 were live rounds that were recovered from the Sig Sauer (Sample #24778) and Hecklien & Kuch (Sample #24779), respectively, and failed to yield any data at all. Hence, while no one can be excluded as a possible contributor, no one can be included, either, due to the lack of any data at all. For this reason, these samples will not be discussed further here.

REFERRAL QUESTION #1**John In is excluded as a contributor to all of the remaining samples**

The following is an excerpt from page 2 of the report issued by the Philadelphia Police Department's Forensic Science Division (see page 1 of the PDF entitled "DNA.pdf"), with which I concur:

1. John In is excluded as a contributor of the DNA detected in samples #24775 – 24779.

The published data supports this conclusion. Samples #24775 through #24779 include:

- Sample #24775 – "Item #1, swab from white latex glove, rear alley behind 724 W. Mifflin"
- Sample #24776 – "Item #2, swab from white latex glove, in front vestibule of 720 W. Mifflin"
- Sample #24777 – "Item #3, swab from piece of latex glove, on the highway near 720 W. Mifflin"
- Sample #24778 – "Item #4, swab of item #1 (PR#9006283), Sig Sauer 9mm Pistol"
- Sample #24779 – "Item #5, swab of item #2 (PR#9006283), Hecklien & Kuch P-2000 9mm Pistol" [sic]

REFERRAL QUESTION #2**Item #2 (Sample #24776): Dyshon Marable is excluded as a contributor to the glove piece from the vestibule**

The following is an excerpt from page 2 of the report issued by the Philadelphia Police Department's Forensic Science Division (see page 1 of the PDF entitled "DNA.pdf"):

3. The partial DNA mixture profile detected in sample #24776 consists of a mixture from at least two contributors, at least one of which is male. Jerry Jean and John In are excluded as contributors of the DNA detected in this sample. No further conclusions can be made at this time regarding any additional contributors of the DNA detected in this sample.

Given that the forensic DNA profile was that of a mixture of at least two contributors, and that Jerry Jean and John In have both been excluded, then it can be concluded that both of the contributors to this sample are unknown. The forensic DNA profile that was published by the Philadelphia Police Department's Forensic Science Division was compared to that which was published by DDC. Dyshon Marable can be excluded as a possible contributor.

REFERRAL QUESTION #3**Item #4 (Sample #24778): Dyshon Marable is excluded as a contributor to the Sig Sauer 9mm pistol**

The following is an excerpt from page 2 of the report issued by the Philadelphia Police Department's Forensic Science Division (see page 1 of the PDF entitled "DNA.pdf"):

5. The partial DNA mixture profile detected in sample #24778 consists of a mixture from at least two contributors. The major component originates from an unknown male. Jerry Jean and John In are excluded as contributors of the DNA detected in this sample. No further conclusions can be made at this time regarding any additional contributors of the DNA detected in this sample.

Given that the forensic DNA profile was that of a mixture of at least two contributors, and that Jerry Jean and John In have both been excluded, then it can be concluded that both of the contributors to this sample are unknown. The forensic DNA profile that was published by the Philadelphia Police Department's Forensic Science Division was compared to that which was published by DDC. Dyshon Marable can be excluded as a possible contributor.

REFERRAL QUESTION #4

At least two unknown profiles present in Item #2 (Sample #24776) and Item #4 (Sample #24778)

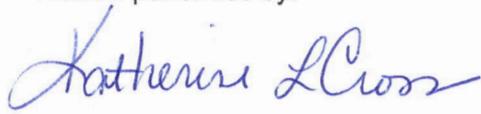
Considering that Jerry Jean, John In, and Dyshon Marable are not contributors to either Item #2 or Item #4, then it stands to reason that the DNA came from unknown individuals. Both Item #2 (Sample #24776) and Item #4 (Sample #24778) each yielded mixed DNA profiles of at least two individuals. Given the number of common alleles between the two samples, however, it cannot be ruled out at this time whether there is at least one common contributor between the two (*i.e.*, one unknown contributor whose DNA is present on both items). A third contributor may also be indicated at the locus D21S11 ("(30), 30.2, (32.2)" vs. "28, 29"), but it could not be determined whether or not one or more of these alleles might be artifactual or too negligible to use in any kind of interpretation. This may have been what was being implied in the Forensic Science Division's report, when it stated that "*[n]o further conclusions can be made at this time regarding any additional contributors of the DNA detected in this sample.*"

Review performed by:



Arthur W. Young, B.S., F-ABC
Forensic Biology Specialist

Review performed by:



Katherine L. Cross, M.S., F-ABC
Forensic Biology Specialist



APPENDIX A

Philadelphia Police Department's Forensic Science Division's forensic DNA analysis report for Lab #07-70327 (dated 03/06/08) has been republished here, as well as the comparable DNA data from DNA Diagnostic Center's Forensic Report for Case #F20-25192 (dated 02/28/20).

SAMPLE#:	#24775	#24776	#24777	#24778	#24779	#24780	#24781	#24805	#24806	
PR#:	PR#9006285	PR#9006285	PR#9006285	PR#9006285	PR#9006285	PR#9006285	PR#9006285	PR#2720376	PR#2720377	
ITEM#:	Item #1	Item #2	Item #3	Item #4	Item #5	Item #6	Item #7			
DESCRIPTION:	Swab from white latex glove, rear alley behind 724 W. Mifflin	Swab from white latex glove, in front vestibule of 720 W. Mifflin	Swab from piece of latex glove, on the highway near 600 W. Mifflin	Swab of item #1 (PR#9006283), Sig Sauer 9mm pistol	Swab from item #2 (PR#9006283), Heckler & Koch P-2000 9mm pistol	Swab taken from live round in chamber of item #1 (PR#9006283)	Swab taken from live round in chamber of item #2 (PR#9006283)	Jerry Jean	John In	Dyshon Marable
Amelogenin	X, Y	X, Y	X, Y	X, Y	X, Y	NR	NR	X, Y	X, Y	X, Y
D3S1358	15, (16), 17	16, (17)	15, 16, (17)	17	14, 15	NR	NR	15, 17	15	17, 18
D5S818	8, (10), (11), 12, (13)	(11), 12, (13)	(8), 10, 11, 12	11, 12	(8), 10, (11), 12, (13)	NR	NR	8, 12	10, 12	8, 12
D7S820	8, (10), 11	10, 11, 12	8, 9, (10), 11, 12	10, 11	10, (11)	NR	NR	8, 11	8, 11	8, 9
D8S1179	12, (14)	(10), (12), 14	(10), 12, (13), (14)	10, 13, (14)	(10 or 11?*), (12), (14)	NR	NR	12	10, 13	12, 13
D13S317	(11), 12	(8), (9), 11, (12)	(8), (9), (10), (11), 12, 13	8	9, 12	NR	NR	12	11	11
D16S539	(10), (11), 12, (13), 15	9, 11, (12)	9, (11), (12), 13	9	(9), 11	NR	NR	12, 15	11, 12	10, 11
D18S51	13, (15), (17), 19	14	(13), (14), 15, (16), (17), 20	14	13, 15	NR	NR	13, 19	14, 18	16
D21S11	29, 30, (31), (31.2), (33.2?)	(30), 30.2, (32.2)	(29), 30, (32)	28, 29	29, (30), (31)	NR	NR	29, 30	30, 33.2	29, 31
CSF1PO	11, (12), (13)	10, (11)	(10), 11, 12	10	11, (13)	NR	NR	11, 13	10, 12	11
FGA	(21), 24, (26)	24, (25)	19, (20), (22), 24, 25	21, (24)	21, (22)	NR	NR	24	18, 23	21, 23
Penta D	9, (12), 13	9, 10	(2.2), 7, 9, (12), (13)	11	(9), 13	NR	NR	9, 13	12, 15	NT
Penta E	(8), (11), 12	NR	7, (8), (10), (11), (16)	16	NR	NR	NR	11, 12	13, 17	NT
TH01	(6), (7), 8	8, 9, 9.3	6, 8, (9), (9.3)	9, 9.3	8, 9.3	NR	NR	8	7	7
TPOX	(9), 11	INC	8, (9), 11	8	8	NR	NR	9, 11	8, 9	11
vWA	16, (17)	16, 17	16, 17	16, (17)	16	NR	NR	16	18	15, 17

*Allele not clearly legible in the copy that was provided.

RPC: 46 be advised, it's 2 black, white
RADIO: We're looking for 2 black males and one Asian male...2
black males and one Asian male...
RPC: 4 Charlie
RADIO: 4 Charlie...
RPC: 4 Charlie have 33 come over to ah...
RADIO: 33.
RPC: 33, I received. I'm trying to come outta the alley.
RADIO: Okay. Is anybody
RPC: 46 be advised, one had light colored jeans, and navy blue zip
up sweats.
RADIO: Light colored jeans and navy blue zip up sweats, okay...
RPC: 4 Charlie, this male's got blue jeans on and a navy blue
sweat...sweat-jacket...a beard...4 Charlie have 33 come
over to ah...400 Hoffman.
RADIO: 43, 400 Hoffman.
RPC: 4 Charlie, I'll need also...I need a wagon over here also.
J-BAND: Okay J to South 2, I know you're busy, but when you get a
chance
RPC: 33.
RADIO: 33.
RPC: Let me know if anybody retrieved my vehicle. It was sitting
on the...700 block of Mifflin Street. I jumped out after this
male.
RADIO: Okay. Units check um...30, for 33's car 700 block of
Mifflin...
J-BAND: Yeah, J to South 2, ah let me know if ah...to resume the
Assist, I have units from other Divisions going in. and also I
need the badge number of the officer that discharged, and if
there's any injuries.
RADIO: Okay. 4 Charlie...46, when you get a
RPC: 4 Charlie.
RADIO: 4 Charlie, we still have any of these males in sight? Or any
more flash we have for em?...
RPC: CI-2.
RADIO: CO-2.
RPC: Good morning. It's CI-2. You have a police discharge at 7th
and Mifflin?
RADIO: That's correct. We have 46 car with a police charge. 46 car,
a badge number please ma'am, when you get a chance.

RPC: 7047.
RADIO: 7047...
RPC: 4 Charlie, get me a wagon. Give me my wagon at 5th and Hoffman.
RADIO: 400, 5th and Hoffman.
RPC: 33, that's where you want me at, 5th and Hoffman?
RADIO: 400 that's correct, 5th and Hoffman.
EPW: Ah 400 we're enroute. We have the prisoner from ah...Mifflin Street, from the 600 block of Mifflin Street as well.
RADIO: Okay. Alright, 33 that's correct. That's gonna be um...the...it's gonna be 500 Hoffman with 4 Charlie...Alright, 4 Charlie do we know if we have any, any injuries to police, sir?...46, ma'am do you have any injuries.
RPC: CI-2, I'm ah... enroute to that location. As soon as you can raise 4 Charlie ascertain whether there are any injuries please.
RADIO: Okay. 4 Charlie...
RPC: 4 in, there's no in, 4 Charlie no injuries to police at this time.
RADIO: Okay. CI-2 receive?
RPC: CI-2, it was ah...he said negative on the injuries?
RADIO: That's correct...
RPC: 48.
J-BAND: Okay, J to South ah...can we resume it?
RADIO: 4 Charlie, from J-Band, can we assume it?...
RPC: 4 Charlie yes, please resume it.
J-BAND: Okay. Do you have an apprehension? Are we looking for anybody else?
RADIO: So far they have two apprehensions. We're still looking for uh, ...for one. 4 Charlie, what's the last um person we're looking for?
RPC: 4 Charlie I'm gonna go up to Mifflin and find out now. Just make sure my wagon, have him come up to the 600 block of Hoffman. The ah 17th has one for me now.
RADIO: Okay. 4 Charlie we're trying to find out what, the one that 46 ah discharged on, is that one of the prisoners that you have?...
RPC: Ah, he apparently is not shot...
EPW: Okay, 400 we're at 5th and Mifflin now. Where's the sergeant want us?

Declaration of Craig M. Cooley, Esq.

Pursuant to 28 U.S.C. § 1746

I, Craig M. Cooley, hereby declare:

1. I was John In's PCRA attorney in case # CP-51-CR-0004829-2007.

2. Mr. In has always maintained his innocence.

3. Based on my review of the discovery and trial transcripts in the case, the Commonwealth's theory of prosecution was that Mr. In was one of three (3) men who committed a home invasion robbery at 720 Mifflin Street in Philadelphia. The other two men charged were Jerry Jean and Dyshon Marable. The Commonwealth took DNA profiles from Mr. In and Jerry Jean. The Commonwealth took no profile from Marable, and trial counsel never requested that one be taken.

3. The discovery and trial evidence revealed that co-defendant Jean's DNA was found on a gun and latex glove recovered behind the residence. Co-defendant Marable was apprehended inside the residence in a closet. Both of these men pled guilty. Mr. In was arrested several blocks away, and none of his DNA was found at the crime scene or on any of the items connected to the crime.

4. The discovery and trial evidence revealed that a piece of latex glove was found in a front vestibule from which one of the home invaders was seen escaping. Both Jean and John In were excluded as contributors of the DNA found on that glove piece.

5. In closing at Mr. In's trial, the trial prosecutor suggested to the jury that the glove piece had been worn by Marable, so the fact that neither Jerry Jean's nor Mr. In's DNA was found on the glove piece, did not mean that Mr. In was not involved in the home invasion.

6. I was aware that Mr. In had asked his trial attorney to obtain Marable's DNA for comparison with the glove piece found in the vestibule. In fact, there was a letter in the trial file from trial counsel to Mr. In, after the verdict and before a ruling on post-sentence motions, in which trial counsel directly referenced Mr. In's request.

7. I have, within the last month, learned that habeas counsel obtained Marable's DNA profile, and I have learned that it excludes Marable as a contributor to DNA found on the glove piece in the vestibule.

Declaration of Craig Cooley, Esq.
Page 2

8. If that is correct, this new evidence exonerates Mr. In. It demonstrates that the person who discarded the glove piece – who could not have been John In, or the two admitted perpetrators of the incident (Jean and Marable) – was the third person involved in the home invasion.

9. I concur with habeas counsel that trial counsel was constitutionally ineffective for failing to seek to obtain Marable's DNA profile. This could have been easily accomplished, as profiles were obtained from the other two co-defendants, and in any event, Marable, having been convicted of a qualifying offense, was required to provide a DNA sample.

10. In state post-conviction proceedings, I had no tactical reason to not assert this trial ineffectiveness claim. My not raising the claim was an oversight. This ineffectiveness claim is a substantial one, and assuming habeas counsel's testing is accurate, the claim not only has "some" merit, but it compels a finding that, but for trial counsel's failure, any rational jury surely would have acquitted Mr In.

I hereby declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.

Craig M. Cooley

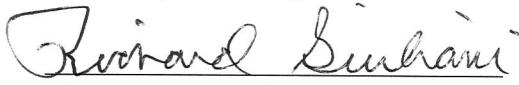
Craig Cooley, Esq. Dated: 2/9/2021

Declaration of Richard Giuliani, Esq. (Pursuant to 28 U.S.C. § 1746)

I, Richard Giuliani, hereby declare:

1. I was John In's trial attorney at his September, 2008 trial in which he was convicted of burglary, robbery and related offenses, in connection with a home invasion at 720 Mifflin Street, in Philadelphia.
2. The Commonwealth's theory was that three men – Mr. In, and two others (Jean and Marable) – committed the crime. Marable was apprehended in the house and Jean was caught by police after jumping out an upstairs window. Both men pled guilty before Mr. In's trial.
3. DNA was recovered from a piece of a latex glove (found in the house), worn by one of the perpetrators. Commonwealth pretrial testing excluded Mr. In and Jean as contributors. Neither the Commonwealth nor I ever sought to obtain Marable's profile and compare it to the DNA found on the glove piece.
4. In closing, I argued that based on where Marable was arrested within the house, Marable's DNA could not have been on that glove piece, and therefore in light of the Commonwealth's testing excluding Mr. In and Jean as contributors to the glove piece, the third perpetrator could not have been John In.
5. The prosecutor urged the jury to reject my argument, and suggested that Marable certainly could have been wearing the glove that contained the piece that was recovered.
6. I have since learned that Marable's DNA profile was obtained after the trial, and it demonstrates that none of the DNA on the glove piece is Marable's.
7. I believe that had the jury known this, it would have had no basis to convict Mr. In. I had no reasonable strategic rationale for not seeking to obtain Marable's DNA profile.

I hereby declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.


Richard Giuliani, Esq.

Date: 10-7-21



CITY OF PHILADELPHIA
Police Department
Office of Forensic Science
843-849 N. 8th Street
Philadelphia, PA 19123
(215) 685-3161



DNA Laboratory Report

Philadelphia Police Department
South Detective Division
24th and Wolf Streets
Philadelphia, PA 19145

Philadelphia District Attorney's Office
Conviction Integrity Unit
3 South Penn Square
Philadelphia, PA 19107

DATE: 7/15/2021
LAB #: OFS 08-0266685
DC #: 07-04-009377
Supplemental #1

Investigation of a Robbery

DNA testing procedures were performed on the below listed sample(s). Sample(s) that proceeded for STR analysis were amplified using Polymerase Chain Reaction (PCR) and typed using the GlobalFiler® PCR Amplification kit. The analysis of the below listed sample(s) and any conclusion(s) drawn from the results thereof were conducted in accordance with the Philadelphia Police Department DNA Laboratory Quality Assurance Manual, FBI Quality Assurance Standards and ANSI-ASQ National Accreditation Board ISO/IEC 17025 Accreditation and Supplemental Requirements for Forensic Testing.

The dates of examination for the evidence analyzed in this report are 5/3/2021 to 7/12/2021.

Sample #	PR #	Item Description
24775	9006285	Item #1, swab from white latex glove, rear alley behind 724 W. Mifflin
72740	3437960	Buccal swab from Dyshon Marable

CONCLUSIONS:

Please refer to the previous PPD DNA Laboratory Report # 07-70327, dated 3/6/2008.

1. The DNA detected in sample 24775 is consistent with a mixture originating from at least three individuals, at least one of whom is male. Due to the complexity of the mixture and insufficient data, the origin of the DNA mixture detected in sample 24775 relative to Dyshon Marable is inconclusive.
2. Dyshon Marable is excluded as a contributor of the DNA mixture detected in sample 24776.
3. Due to the complexity of the mixture, the origin of the DNA detected in sample 24777 relative to Dyshon Marable is inconclusive.
4. Dyshon Marable is excluded as a contributor of the DNA mixture detected in sample 24778.
5. Dyshon Marable is excluded as a contributor of the DNA mixture detected in sample 24779.
6. A DNA profile originating from a male source was obtained from sample 72740 (Dyshon Marable).

CODIS ENTRY:

A DNA profile from sample number 72740 has been entered into the Combined DNA Index System (CODIS) at the local, state and/or national level(s) in accordance with regulations. Regular searches will be performed and notification will be issued if there is a hit in the database or if the profile is removed from CODIS at any time in the future.

LAB #: OFS 08-0266685 Supplemental #1 **DC #:** 07-04-009377

DATE: 7/15/2021

DISPOSITION OF EVIDENCE:

All DNA extracts have been retained in the Criminalistics Unit. Evidence shall be maintained by the PPD in accordance with all applicable directives, standards and/or legal requirements.

LAB #: OFS 08-0266685 Supplemental #1 DC #: 07-04-009377

DATE: 7/15/2021

Summary of STR Typing:

Sample Number	24775	72740
D3S1358	15, 16, 17	17, 18
vWA	(15), 16, (17)	15, 17
D16S539	(11), 12, 15	10, 11
CSF1PO	(10), 11, (12), (13)	11, 11
TPOX	11	11, 11
Y indel	2	2
Amelogenin	X, (Y)	X, Y
D8S1179	(10), 12, (14)	12, 13
D21S11	29, 30	29, 31
D18S51	13, (14), 15, (17), 19	16, 16
DYS391	10	10
D2S441	(10), 11, (14)	11, 14
D19S433	13, (14), (14.2), 15.2	13, 13.2
TH01	(6), (7), 8, (9.3)	7, 7
FGA	(21), 24	21, 23
D22S1045	14, (15), 16, (17)	10, 11
D5S818	8, (11), 12	8, 12
D13S317	(11), 12	11, 11
D7S820	8, (10), 11	8, 9
SE33	19, 19	17, 24.2
D10S1248	(12), (13), 14, (15)	13, 13
D1S1656	11, 12, 16.3, 17.3	12, 20
D12S391	(17), 18, (20), (23)	15, 19
D2S1338	17, (19), (22)	17, 19

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Lighter intensity allele

Benjamin S. Levin

Forensic Scientist 4

Laboratory User Fee Requested: \$ 1,050.00

This report accurately reflects the findings and opinions of the forensic examiner who performed the analysis. All of the examinations and tests were performed in compliance with validated and industry-approved procedures and standards.